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To: EXAMINER GUTMAN, H.
U.S. PATENT AND TRADEMARK OFFICE

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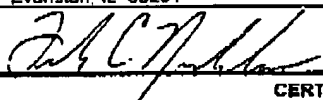
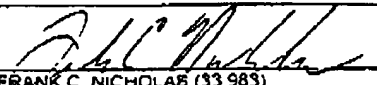
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TRANSMITTAL FORM (To be used for all correspondence after initial filing)	Attorney Docket No.	3000/22
	Application Number	10/664,806
	Filing Date	SEPTEMBER 17, 2003
	First Named Inventor	TIMOTHY K. SEARFOSS
	Group Art Unit	3612
	Examiner	GUTMAN, H

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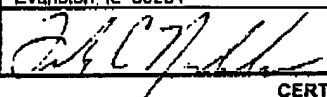
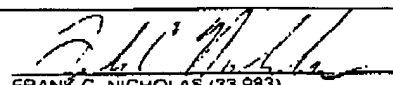
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Indep		Nilus		x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim				x \$180=	---	x \$360=	
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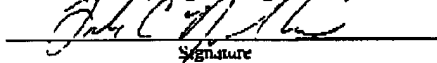
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Name of applicant, assignee or registered representative


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January 10, 2005

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PATENT-APPEAL

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: TIMOTHY SEARFOSS Group Art Unit: 3612
Serial No.: 10/664,806 Filed: September 17, 2003 Examiner: Gutman, H.
Title: TRAIL COVER SYSTEM Attorney Docket No.: 3000/22

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22202-1450

Sir:

This is an appeal from the final rejection of claims 1-33 in the Office Action mailed September 7, 2004.

REAL PARTY IN INTEREST

The real party in interest is Roll Rite Corporation.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

STATUS OF CLAIMS

This application was filed September 17, 2003 with claims 1-33 (reproduced in Claims Appendix). The claims were not amended, and are the subject of the present appeal.

STATUS OF AMENDMENTS

There are no unentered amendments.

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SUMMARY OF INVENTION

The invention is a rail 38 for a top of a wall 34 of a trailer. The rail 38 comprises a body adapted to engage the top of the wall 34. The body has a concave surface 56 adapted to receive a cover reel 32:

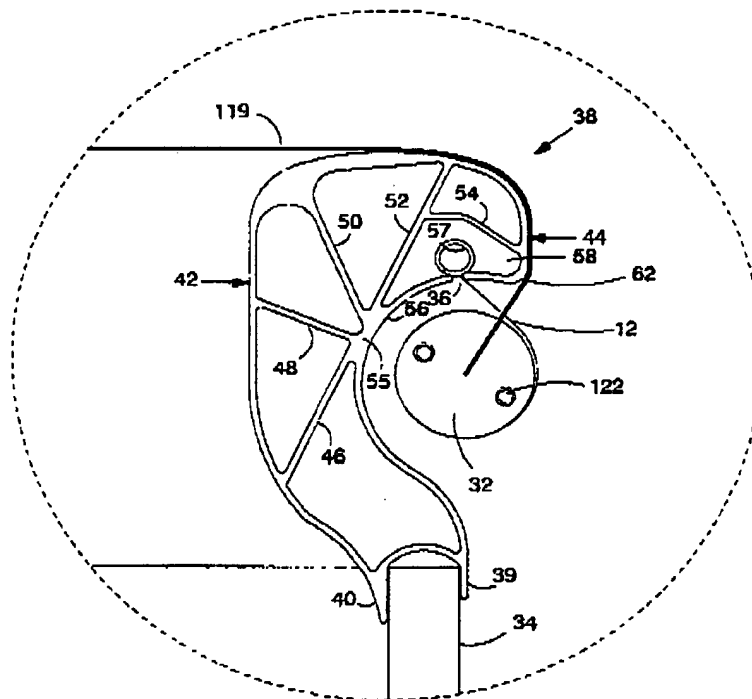


FIG. 3

All of the independent claims recite "a body adapted to engage the top of the wall" and/or the body "having a concave surface."

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. The Examiner maintains that the application improperly claims priority to itself.
2. Independent claim 1 was finally rejected under §102(e) over U.S. Patent No. 6,513,856 to Swanson et al. (Appendix B).

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3. Independent claims 1, 12 and 23 were finally rejected over U.S. Patent No. 5,984,400 to Miller et al. (Appendix C) either alone (claim 1) or in combination with a secondary reference (claims 12 and 23).

GROUPING OF CLAIMS

Claims 1, 12 and 23 are the independent claims involved in the appeal. The dependent claims stand or fall with their respective independent claim.

ARGUMENT

A. A corrected declaration has been filed, obviating the rejection

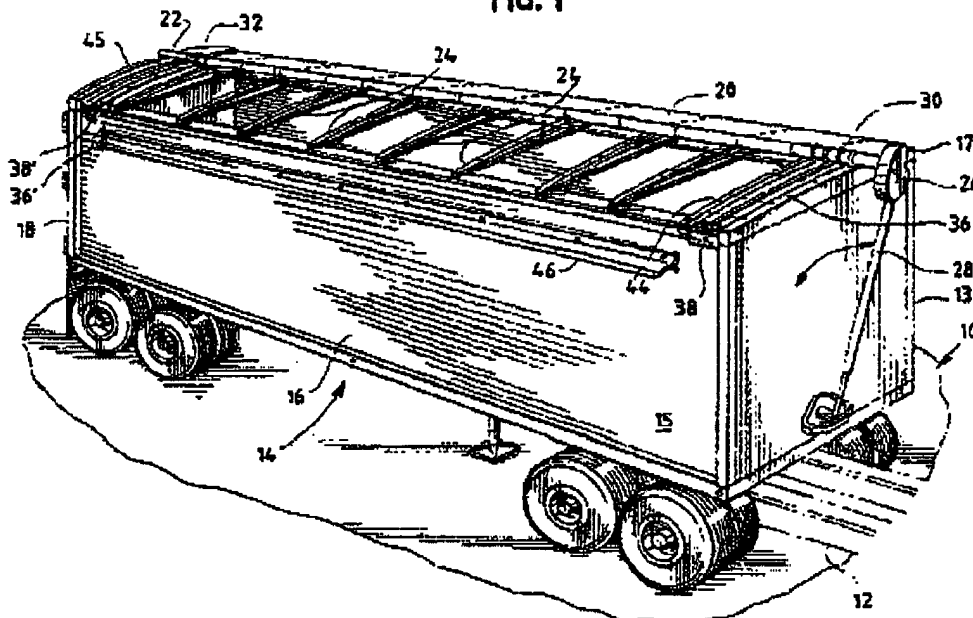
The Examiner maintains that the application improperly claims priority to itself. A supplemental declaration was filed on August 16, 2004, but the Examiner has not acknowledged receipt of that document. The Examiner also included a boilerplate reminder of the proper format for an abstract, but did not detail any deficiencies in the abstract as filed. Thus, neither of these matters is considered to be an issue that would preclude this application from issue.

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B. Swanson's Ledge Engages The Side of the Trailer, Not the Top

The Examiner maintains that a ledge 46 of Swanson et al. '856 is attached "at the top" of the trailer. Office Action mailed September 7, 2004 at page 7.

FIG. 1



The first issue in this appeal is whether the ledge 46 of Swanson et al. '856 engages the top of the wall.

In the drawings, the ledge 46 of Swanson et al. '856 is plainly situated some distance from the top of the wall. See Figures 1 and 6. The specification does not suggest anything else: "[L]ongitudinal latch plate or ledge 46 [is] attached on side 15 near second lengthwise edge 19 of the container 16." Swanson et al. '856 (Appendix B) at column 5, lines 63-65.

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C. Miller's Channel Is Not Concave

The Examiner maintains that a channel 56 of Miller et al. '400 is "generally concave since it extends inwardly and is generally C-shaped." Office Action mailed September 7, 2004 at page 7.

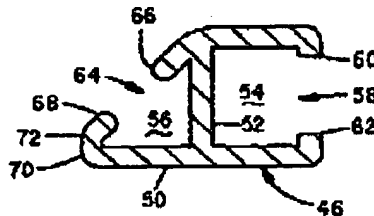


FIG. 3

The second issue in this appeal is whether the channel 56 of Miller '400 is concave.

"Concave" means "curved like a segment of the interior of a circle or hollow sphere; hollow and curved." Webster's Encyclopedic Unabridged Dictionary of the English Language (1989) (Appendix D).

Miller et al. '400 shows a channel 56 with two walls extending at 90 degree angles from each other. The Examiner's statement that she "believes" the channel 56 "to be generally concave since it extends inwardly and is generally C-shaped" does not change either the definition of "concave" or the disclosure of Miller et al. '400.

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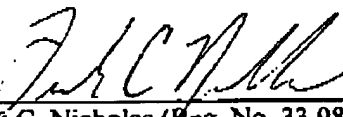
SUMMARY

The Examiner maintains that the references show something that they plainly do not.
The final rejection of claims 1-33 should be reversed.

Respectfully submitted,

TIMOTHY SEARFOSS

Date: January 10, 2005

By: 
Frank C. Nicholas (Reg. No. 33,983)
CARDINAL LAW GROUP
1603 Orrington Ave., Suite 2000
Evanston, IL 60201

Enclosures: Claims Appendix - Claims 1-33
Appendix B - U.S. Patent No. 6,513,856 to Swanson et al.
Appendix C - U.S. Patent No. 5,984,400 to Miller et al.
Appendix D - entry from Webster's dictionary

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CLAIMS APPENDIX

1. A rail for a top of a wall of a trailer, the rail comprising:
a body adapted to engage the top of the wall, the body having a concave surface adapted to receive a cover reel.
2. The rail of claim 1 wherein the concave surface faces away from the trailer.
3. The rail of claim 1 further comprising at least one leg connected to the body.
4. The rail of claim 3 wherein the at least one leg is adapted to engage the top of the wall.
5. The rail of claim 3 wherein the at least one leg is adapted to be welded to the top of the wall.
6. The rail of claim 1 wherein the body comprises a plurality of ribs.
7. The rail of claim 1 wherein the body includes an opening adapted to anchor a cover.
8. The rail of claim 1 wherein the body extends at least a majority of a length of the wall of the trailer.
9. The rail of claim 1 wherein the body comprises aluminum.
10. The rail of claim 1 wherein the body comprises a polymer.
11. The rail of claim 1 wherein the body is extruded.
12. An apparatus for extending and retracting a cover over a trailer, the apparatus comprising:
a base pivotably connected to the trailer;
an extension connected to the cover and pivotably connected to the base; and
a rail for a top of a wall of the trailer, the rail including a body adapted to engage the top of the wall, the body having a concave surface adapted to receive a cover reel.

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13. The apparatus of claim 12 wherein the concave surface faces away from the trailer.
14. The apparatus of claim 12 further comprising at least one leg connected to the body.
15. The apparatus of claim 14 wherein the at least one leg is adapted to engage the top of the wall.
16. The apparatus of claim 14 wherein the at least one leg is adapted to be welded to the top of the wall.
17. The apparatus of claim 12 wherein the body comprises a plurality of ribs.
18. The apparatus of claim 12 wherein the body includes an opening adapted to anchor the cover.
19. The apparatus of claim 12 wherein the body extends at least a majority of a length of the wall of the trailer.
20. The apparatus of claim 12 wherein the body comprises aluminum.
21. The apparatus of claim 12 wherein the body comprises a polymer.
22. The apparatus of claim 12 wherein the body is extruded.
23. An apparatus for extending and retracting a cover over a trailer, the apparatus comprising:
 - a base pivotably connected to the trailer;
 - an extension connected to the cover and pivotably connected to the base;
 - a reel connected to the extension;
 - a motor mounted on the extension and drivingly engaged with the reel to selectively extend and retract the cover over the trailer; and
 - a rail for a top of a wall of the trailer, the rail including a body adapted to engage the top of the wall, the body having a concave surface adapted to receive the reel.

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24. The apparatus of claim 23 wherein the concave surface faces away from the trailer.
25. The apparatus of claim 23 further comprising at least one leg connected to the body.
26. The apparatus of claim 25 wherein the at least one leg is adapted to engage the top of the wall.
27. The apparatus of claim 25 wherein the at least one leg is adapted to be welded to the top of the wall.
28. The apparatus of claim 23 wherein the body comprises a plurality of ribs.
29. The apparatus of claim 23 wherein the body includes an opening adapted to anchor the cover.
30. The apparatus of claim 23 wherein the body extends at least a majority of a length of the wall of the trailer.
31. The apparatus of claim 23 wherein the body comprises aluminum.
32. The apparatus of claim 23 wherein the body comprises a polymer.
33. The apparatus of claim 23 wherein the body is extruded.

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EVIDENCE APPENDIX

Appellants entered no evidence pursuant to §1.130, 1.131 or 1.132, and the Examiner entered no evidence that was relied upon by Appellants.

RELATED PROCEEDINGS APPENDIX

There are no copies of related decisions or proceedings.

Commentary by Dr. James Bryant Conant, U.S. Open and Education President of Harvard University, 1960-65.

COLE'S TRADING SERVICE, a Payson, Arizona, part of the same
the moving in of with driving through desert and
POLICE (4 - 20000000 - 15 of 20000000 as effort, equiv-
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COGNITIVE (KOP'ITIV KO'gn-) adj. 1. *Psychol.* pertaining to or of the nature of cognition. 2. *Gram.* expressing action or effort a cognitive verb. —n. 3. *Gram.* a cognitive word, affix or verbal aspect. [COGNATUS] + -IVE]

co-actus (x3 15/16s). 7. pl. -tus. In an effort or striving, a force or tendency simulating a human effort. 8. In the philosophy of Spinoza: the force in every animate creature toward the preservation of its existence. (Cf. L. errorion, a life of conatus, prop. of conatus to attempt: see CONATION.)

con בְּחִיָּה (con b'chi'ah, קֹחַ יָד בְּחִיָּה, with vigor;
intravaciously (used as a musical direction), [C 10]

CONC. 1. CONCENTRATED 2. CONCENTRATED 3. CONCENTRATED
STATION 2. CONCENTRATED

con-cate-nate (kŏn-kat'ē-nē), v. -nated, -nating.
adj. -nate. 1. To link together, unite in a series of chain
-ing. 2. linked together, as in a chain. [*L.* *concatē-*
lētus (us) *imp.* of *concatēre*, equiv. to *con-* + *catē-* + *l-*
lētus, *lētus* = *linked*, *lētus* = *to link*.]

on case nation (kon ka'si-nā'siōn). n. 1. the act of concentrating. 2. the state of being concentrated; connection, as in 3. 3. a series of interconnected or interdependent things or events. [Cf. *concentration* (s. of *concentrate*); equiv. to *con-* (cf. *con-*) + *concentrate* + *-iōn* (-iōn).]

CONCAVE (kă) v. KON KAV', KON-
kay'; n. KON (kay'), kă. 1. n. a.
-caved, -caving. —cay. 1. curved
like a segment of the interior of a
circle or hollow sphere, hollow and
curved. C: convex (del. 1).
2. Geom. (of a polygon) having at
least one interior angle greater
than 180°. 3. Geom. hollow —
1. a concave surface, part, line.

[illegible]

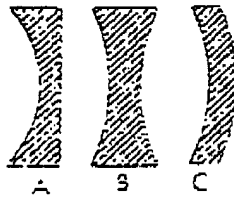
CON-CONVEXITY (KON-KATV'ITE), n. pl. -ities. 1. the state of quality of being convave. 2. a convave surface or thing. 3. hollow cavity. [See also CONVEXITY & CONCAVITY] (S. O. O'NEILL). See CONCAVITY, -ITY.

CON CA.VO-CON.CZVE (AOM K2'VOZOM K2V'), 242. CON-
CA.VO-CON.CZVE (AOM K2'VOZOM K2V') = -C- + CON.CZVE

CON CA VC-CON-VEK (CON CA VC CON VES/), etc. 2. CONCAVE on one side and CONVEK on the other. 2. Opinion pertaining to or having a face in which the CONCAVE face has a greater degree of curvature than the CONVEK face (+ CONCAVE) and (+ CONCAVE).

con-ceal (kən-seil) *v.* 1. to hide; withdraw or remove from observation, cover or keep from sight. *He concealed the gun under his coat.* 2. to keep secret; to prevent or avoid disclosing or divulging. *He concealed the true source of the gold.* [*See M.B. conceal, concealable & B.B. concealer*] < *conceal*, equiv. to *con-* (con-) + *ceal* to hide; *see* *con-* (con-). —*con-ceal-able*, *adj.* —*con-ceal-ably*, *adv.* —*con-ceal-er* (con-seal), *n.* —*con-ceal-er* *n.* —*con-ceal-ing*, *n.* *See* *hide*.

1. STATE OF 2. DATE 3. TIME 4. PLACE 5. REASON 6. REMARKS

[illegible]

A. Concave or
plano-concave lens.
B. Concavo-convex
lens; C. Concavo-
convex lens.

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